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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,973	06/14/2001	Ernst F. Reichwein	43299.830001.001	7474

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EXAMINER

NGUYEN, CUONG H

ART UNIT PAPER NUMBER

3625

DATE MAILED: 08/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/880,973

Applicant(s)

Reichwein & White

Examiner

Cuong H. Nguyen

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Aug 17, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above, claim(s) 1-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18, 46, and 52 is/are rejected.
- 7) ☒ Claim(s) 19-45, 47-51, and 53-55 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 20) ☐ Other:

DETAILED ACTION

1. This Office Action is the answer to the communication received on 8/17/2001 (the IDS).
2. Claims 18-55 are pending in this application. Claims 1-17 were canceled on 6/14/2001.

Drawings

3. This application has been filed with drawings which are acceptable for examining purposes 1.84/1.152.
4. The following rejections are based on the examiner's broadest reasonable interpretation of the claims, In re Pearson, 181 USPQ 641 (CCPA 1974).

Double Patenting

5.A rejection based on non-statutory double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain **a patent** therefore ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See **Miller v. Eagle Mfg. Co.**, 151 U.S. 186 (1894); In re **Ockert**, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); In re **Vogel**, 422 F.2d 438, 164 USPQ 619 (CCPA 1970). Where the claims of an application are not the "same" as those of a first patent, but the grant of a patent with the claims in the application would unjustly extend the

rights granted by the first patent, a double patenting rejection under non-statutory grounds is proper.

6. Claims **18, 46, 52** have similar claimed limitations over US Pat. 6,311,162 issued on 10/30/2001 to Ernst F.

Reichwein, and Joseph G. **White** (see **Reichwein et al. '162** for similar submitted drawings and claims 1, 30, 36 - that represent similar scope and subject matters of previous invention, and the pending application).

A. Re. To claim **18** of the pending application: An

interactive symptomatic recording device for compiling symptoms relating to a product as sensed by a lay person, and for generating a chart of symptoms for use by a service provider, the recording device comprising:

- a query generator;
- a presentation device for receiving an initial query from the query generator and for presenting the initial query to the lay person;
- the presentation device also receiving at least one next query generated by the query generator and presenting the at least next query to the lay person;
- an input device allowing the lay person to respond to queries presented to the lay person by the presentation device;

- a compiler coupled to the compiler to prepare a chart of symptoms of the product based on the compiled responses, the chart for use by a service provider;
- the chart providing sufficient information so that the lay person generally does not need to further communicate with the service provider when leaving the product with the service provider;
- wherein the query generator is coupled to the presentation device to generate the initial query and to send the initial query to the presentation device;
- wherein the query generator is coupled to the input device to receive responses from the input device and to generate at least one next query based on received responses; and wherein at least one of the next queries is related to a symptom sensed by the lay person.

B. Re. To claim 1 of US Pat. 6,311,162: A lay person interactive symptomatic recording device for standardizing an compiling symptoms of a product sensed by the lay person and generating a comprehensive standardized chart of symptoms for a service provider, the recording device comprising:

- a query generator;
- a presentation device that receives and presents an initial query generated by the query generator to the lay

person, the presentation device also receives and presents at least one next query generated by the query generator; an input device allowing the lay person to respond to the queries presented on the presentation device;

- a compiler coupled to the input device to compile the received responses; and
- an output device coupled to the compiler to prepare a standardized chart of the symptoms of a product based on the compiled responses for use by a service provider, the standardized chart providing sufficient information so the lay person does not need to have direct communication with the service provider when leaving the product with the service provider;

- wherein the query generator is coupled to the presentation device to generate the initial query and send the initial query to the presentation device, the query generator is coupled to the input device to receive responses to the queries from the input device and generate at least one next query based on the received response, and at least one of the next queries is related to a symptom sensed by the lay person.

C. Re. To claim 46 of the pending application: A method allowing a lay person to record symptomatic problems and to generate a chart of symptoms relating to a product, the

chart for use by a service provider in servicing the product, the method comprising the steps of:

- initially querying a lay person for symptom information relating to a product;
- receiving an initial response from the lay person related to the initial query;
- generating a next query to the lay person based upon the received initial response, the next query relating to categories of symptoms that are sensed by the lay person using at least one of the five human senses;
- receiving a next response from the lay person relating to the next query;
- determining whether additional information is necessary relating to the product;
- when additional information is necessary, repeating the generating step and the receiving step;
- when additional information is not necessary, compiling the initial response and all next responses received from the lay person; and
- outputting a chart of symptoms relating to the product based upon the compiling step, the standardized chart focuses by a service provider;
- the chart having sufficient information therein to minimize or eliminate further communication between the lay

person and the service provider prior to the service provider servicing the product.

D. Re. To claim 30 of US Pat. 6,311,162: A method of allowing a lay person to record symptomatic problems to generate a comprehensive standardized chart of symptoms for a service provider; the method comprising the steps of:

- initially querying a lay person for information;
- receiving responses from the lay person related to the initial query;
- generating at least one next query based on the received response, at least one of the next queries relate to categories of symptoms sensed using at least one of the five human senses by the lay person for the product;
- receiving next responses from the lay person to the at least one next query;
- determining whether additional symptomatic information is necessary;
- repeating the generating at least one next query, receiving next responses, and determining whether additional symptomatic information is necessary based on the determination;
- compiling the symptomatic information received from the lay person; and
- outputting a standardized chart of the symptoms of the product based on the compiled information for use by a

service provider, the outputted standardized chart having sufficient information so the lay person does not need to have direct communication with the service provider when leaving the product with the service provider.

E. Re. To claim 52 of the pending application: A computer program product comprising:

- computer usable medium having computer readable code embodied therein, the computer usable medium comprising:

- a querying module configured to generate an initial query to a lay person for information regarding symptoms of a product;

- the querying module further configured to generate at least one next query regarding symptoms of the product based upon a response received from the lay person to the initial query;

- a receiving module configured to receive a response from the lay person to the initial query and to receive a response from the lay person to the at least one next query;

- a compiling module configured to compile responses received from the lay person, including symptomatic information received from the lay person within the response; and

- an outputting module configured to output a chart of symptoms relating to the product based upon the compiled responses, the chart for use by a service provider;

- the chart containing sufficient symptomatic information to enable the service provider to service the product with minimal additional communication between the service provider and the lay person.

F. Re. To claim 36 of US Pat. 6,311,162: A computer program product comprising:

- a computer usable medium having computer readable code embodied therein for processing data, the computer usable medium comprising:

- a querying module configured to generate an initial query to a lay person for information;

- a receiving module configured to receive a response from the lay person to the initial or next query;

- the querying module further configured to generate at least one next query based on the received response regarding symptoms of a product;

- a compiling module configured to compile the received responses including the symptomatic information; and

- an outputting module configured to output a standardized chart of the symptoms of the product based on the compiled information for use by a service provider, the outputted standardized chart having sufficient information so the lay person does not need to have direct communication with the service provider when leaving the product with these service provider.

7. The issued patent and this pending application are cross-read, meaning that "the test is whether the subject matter of the claims of the patent sought to be invalidated would have been obvious from the subject matter of the claims of the other patent, and vice versa". This decision highlights the importance of explicit findings of motivation in PTO decisions, because such findings cannot be supplemented once the case is on appeal to the courts.

8. A non-statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The timely filing of a terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome a provisional double patenting rejection based upon 35 U.S.C. 101.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

9. The remaining dependent claims (19-45, 47-51, and 53-55) that are dependent to double-patenting claims 18, 46, and 52 are provisionally objected because they are incorporating defects from their parent claims.

Conclusion

10. Claims 18-55 are not patentable.

11. These prior art have related subject matter to this pending application:

- "Connecting with customers", Business Line; Jul. 16, 1998.
- "Computer guide: systems, hardware, software", Chilton's distribution; vol.82, p. 74(3); Mar. 1983.
- "Voice of the industry", Modern Casting, vol.88, p. 32(1); Oct. 1998.
- Gregory Hale, "Virtual Tug of War", Computer Reseller News; n633, p.35(8); June 5, 1995.
- Michael W. Armstrong, "Defense firm analytics going public; Willow Grove company seeks \$5.9 million through IPO", Philadelphia Business Journal, vol.6 n43, p.1(2), 1/11/1998.
- M2 Presswire of 10/21/1996, M2 Communications.
- Gray, (US Pat. 5,214,582 - 5/25/1993) Interactive diagnostic system for an automotive vehicle, and method; wherein an interactive diagnostic system is disclosed herein for use with an automotive vehicle of the type including a network of sensors and actuators for independently sensing and actuating a number of different functions within the vehicle and an onboard computer for monitoring the sensors and controlling the operation of the actuators. This system provides the automotive service professional with all of the tools necessary to provide precision diagnostic testing on

today's computer-controlled cars. This is accomplished by providing the system with means including an external computer for controlling operation of one or more specific actuators independent of the onboard computer and for simulating the operation of specific sensors independent of the actual operation of these latter sensors. At the same time, the electronic data entering and exiting the onboard computer including the actual data associated with the network of sensors and actuators can be continuously monitored and analyzed by the external computer. In this way, the automotive service professional is able to quickly and easily test and trouble shoot the performance of a vehicle's onboard computer and engine electronics down to the component level including specifically its entire network of sensors and actuators.

Hughes et al. (US Pat. 5,557,268 - /17/1996, class 340/933)
Automatic vehicle recognition and customer automobile diagnostic system; wherein a system and method for identifying a vehicle for the purpose of displaying diagnostic information to the driver. Each vehicle includes a transponder that transmits an encoded character sequence that is unique to that vehicle. In this way vehicle diagnostic measurements made at the establishment entrance can be associated with the vehicle, and displayed to the

customer when the vehicle is recognized again at a service area.

Stewart et al. (US Pat. 5,058,044 - 10/15/1991, class 702/184), Automated maintenance checking system, wherein a system for automatically identifying vehicles, assimilating data from an identified vehicle, correlating the data with predetermined data and providing a statement of account indicative of a transaction involving the vehicle. The system also provides a service record of the vehicle for use in connection with the transaction. For example, in a car rental environment, the service report is utilized by an attendant to determine if such service items as refilling the fuel tank are necessary. Primarily, data for the service record is provided by sensors located on-board the vehicle. The sensor data may be supplemented by data inputted via a keyboard located on-board the vehicle.

Micham, (US Pat. 5,537,315 - 7/16/1996, class. 705/4) Method and apparatus for issuing insurance from kiosk; wherein a method and system in a data processing system for automatically associating a user's signature with a document. The data processing system includes a touch screen display, a central processing unit, a data storage system, at least one document stored within the data storage system, and a pointing device. A document is specified within the data processing system. A signature is received in response

to the user touching the touch screen utilizing the pointing device. A signed document is then created by automatically associating the signature with the document.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cuong H. Nguyen whose telephone number is 703-305-4553. The examiner can normally be reached on Mon.-Fri. from 7:15 AM to 3:15 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wynn Coggins, can be reached on (703) 308-1344.

Any response to this action should be mailed to:

Amendments

*Commissioner of Patents and Trademarks
Washington D.C. 20231*

or faxed to:

(703) 305-7687 [Official communications]

or 703-746-5572 (RightFax)

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.

Receptionist: (703) 308-1113.

Cuong H. Nguyen
Primary Examiner
August 07, 2002